

Application No.: 09/920,335
Amendment dated: March 28, 2005
Reply to Office Action of December 14, 2004
Attorney Docket No.: 0016.0010US1

c.) Remarks

Claims 1-38 are pending in this application. Applicants have amended claims 22, 26, 30 and 37 in various particulars as indicated hereinabove.

Only one issue was raised relative to the claimed invention. Specifically, claims 1-38 were rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent No. 6,314,475 to Collin *et al.* (hereinafter Collin patent). This rejection is respectfully traversed for the following reasons.

The present invention is directed to the distributed service level management of network traffic. The general system is illustrated in Fig. 1, in which a routing device 106 communicates with network routers or servers 108a, 108b, via network traffic links 107a, 108b. Specifically, the director function 102, in combination with the sensor function 104, is employed to reduce the negative impact of network traffic 107b on the ability of the routing device to meet its service level goals or commitments for other network traffic 107a. This way, by monitoring network activity, the routing device 106 is controlled in order to meet quality of service requirements, for example, that may be specified in terms of service goals or commitments.

In contradistinction, the Collin patent is directed to a modem control system. Specifically, software modules of the modem communication system are used to perform diagnostics on the modem. This diagnostic process can be performed via the communication channel that the modem also uses to transmit its data. In the example discussed in columns 3 and 4 of the Collin patent, two modems, which are connected by a telephone line for example, can cooperate to modify their respective internal parameters in order to optimize the communication between the modems. This general system is illustrated in the Collin patent, at Fig. 4; a local modem 402 is connected to a remote modem 404 via telephone line 406. In one example of the operation, an application program, running on the remote side, extracts modem parameters and then sends them via the modem to the local side. In this way the two modems can cooperate in order to optimize the data throughput of the telephone line 406.

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Applicants respectfully believe that the invention of claim 1, for example, is not shown by the Collin patent. This claim requires an assessment of whether a networking device is meeting a service level for a first group of network data and then regulating a second group of network data, which are also handled by this first networking device, to assist it in meeting the service level for the first group of network data.

The Collin patent simply does not show a networking device handling two data streams and then, based on the quality of service for one data stream, modulating the other data stream. In short, the communication between the modems 402 and 404 of Fig. 4 happens via the single telephone line 406 that handles a single stream of data.

For similar reasons, Applicants believe that claims 17, 31, and 37 are not shown by the applied reference.

Thus, Applicants respectfully request withdrawal of the rejection.

Applicants would further direct Examiner's attention to claims 3 and 4.

Claim 3, for example, further requires that a first group of network traffic comprises network traffic destined for or sourced from a first one or more network nodes and a second group of traffic comprises network traffic destined to or sourced from a second one or more network nodes. This multi-node system is consistent with a star or mesh topology, the network traffic being transmitted on different communication paths to these nodes. This is simply not shown by the Collin patent, which is directed to modems, which are simply point-to-point communication systems.

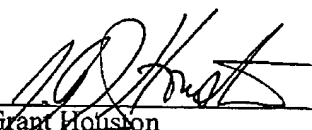
In a similar vein, claim 4 specifies that the network traffic is destined or sourced from different client computers. Again, the Collin patent is only directed to communication between a first client and a second client, not between multiple clients with multiple streams as required by claim 4.

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Applicants believe that the present application is in condition for allowance. A Notice of Allowance is respectfully solicited. Should any questions arise, the Examiner is encouraged to contact the undersigned.

A one-month extension is requested for this response.

Respectfully submitted,

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